



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

JRE  
Docket No: 2529-01  
16 October 2001

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 4 October 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the rationale of the hearing panel of the Physical Evaluation Board which reviewed your case on 7 November 2000, a copy of which is attached. It was not persuaded that you suffered from any additional unfitting conditions. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure

**RATIONALE:**

THE MEMBER IS A 30 YEAR-OLD EO3, USN, WITH ABOUT 5 YEARS OF SERVICE AT THE TIME OF HIS APPEARANCE BEFORE A MEDICAL BOARD AT PORTSMOUTH NAVAL MEDICAL CENTER ON 7 MARCH 2000 WITH THE DIAGNOSES:

- (1) LUMBAR SYNDROME;
- (2) CHRONIC PERMANENT PARESTHESIAS, RIGHT ANTERIOR KNEE DOWN TO PAST THE TIBIAL TUBERCLE ANTERIORLY;
- (3) FACET SYNDROME;
- (4) PROBABLE LEFT SACROILIAC JOINT DYSFUNCTION AND PAIN; AND
- (5) PROBABLE LEFT SACROILIAC JOINT PAIN.

THE INFORMAL PEB CONSIDERED THE CASE ON 7 AUGUST 2000 AND FOUND THE MEMBER UNFIT FOR CONTINUED NAVAL SERVICE BECAUSE OF PHYSICAL DISABILITY BASED ON DIAGNOSIS NUMBER (1) AND RATABLE AT 10% UNDER V.A. CODE 5295. DIAGNOSES (3), (4), AND (5) WERE CONSIDERED CATEGORY II CONDITIONS. DIAGNOSIS NUMBER (2) WAS CONSIDERED A CATEGORY III CONDITION. THE MEMBER DISAGREED WITH THIS FINDING AND DEMANDED A FORMAL HEARING.

A FORMAL HEARING WAS CONDUCTED ON 07 NOVEMBER 2000 AT BETHESDA, MARYLAND, WITH CAPTAIN B. EVANS, AS PRESIDING OFFICER, COLONEL L. E. CONATSER, USMC, AND CAPTAIN L. E. MCCRACKEN, MC, USN, AS PANEL MEMBERS. LIEUTENANT J. W. WEBER, III, JAGC, USNR, REPRESENTED THE MEMBER.

THE MEMBER APPEARED AT THE HEARING REQUESTING TO BE FOUND UNFIT FOR CONTINUED NAVAL SERVICE WITH DISABILITY RATINGS OF 10% UNDER V.A. CODE 5295 AND 10% UNDER V.A. CODE 5299-5003 (FOR HIS LEFT ANKLE) FOR A TOTAL RATING OF 20%. TO SUPPORT HIS REQUEST THE MEMBER PRESENTED TESTIMONY, A MEDICAL BOARD ADDENDUM DATED 26 SEPTEMBER 2000, COPIES OF HIS HEALTH RECORD ENTRIES MADE SINCE THE SUBMISSION OF THE MEDICAL BOARD, A WRITTEN REBUTTAL STATEMENT FROM THE MEMBER, AND NON-MEDICAL EVIDENCE LETTERS FROM HIS DEPARTMENT HEAD, FROM TWO SUPERVISORS, FROM HIS COMMANDING OFFICER, AND FROM A CO-WORKER. THE MEMBER ALSO MADE HIS HEALTH AND SERVICE RECORDS AVAILABLE FOR REVIEW.

AFTER CAREFUL REVIEW OF ALL THE AVAILABLE EVIDENCE AND BASED ON UNANIMOUS OPINION, THE FORMAL PEB FINDS THE MEMBER IS UNFIT FOR CONTINUED SERVICE IN THE U.S. NAVY BECAUSE OF PHYSICAL DISABILITY. THE RECORD DOCUMENTS THAT THE MEMBER HAS HAD CHRONIC LOWER BACK PAIN SINCE 1997 AFTER LIFTING SOME TRACTOR TRAILER TIRES. EVALUATION BY ORTHOPEDICS AND RHEUMATOLOGY HAS BEEN NEGATIVE EXCEPT FOR SOME MILD SPONDYLOSIS OF THE LUMBAR SPINE ON PLAIN FILMS. BONE SCAN

Encl (1)

AND CT SCAN WERE NEGATIVE. A DIAGNOSTIC SACROILIAC INJECTION GAVE 100% RELIEF FOR 24 HOURS FOLLOWED BY WORSE PAIN FOR 3 WEEKS BEFORE RETURN TO BASELINE. THE BACK PAIN HAS FAILED TO RESPOND TO CHIROPRACTIC ADJUSTMENTS. THE BACK PAIN LIMITS HIS ACTIVITIES AND INTERFERES WITH THE ADEQUATE PERFORMANCE OF REQUIRED MILITARY DUTIES.

THE EXAM WAS REPORTED SHOWING NORMAL GAIT, NO DIFFICULTY WITH TOE AND HEEL WALKING, NORMAL TANDEM GAIT, AND NO MOTOR STRENGTH DEFICIT IN THE LOWER EXTREMITIES. THE MEDICAL BOARD ADDENDUM REPORTED DIFFUSELY LIMITED RANGE OF MOTION OF THE LUMBAR SPINE, DECREASED RANGE OF MOTION ON THE LEFT HIP DUE TO REFERRED PAIN TO THE LEFT SACROILIAC JOINT, A POSITIVE FABERE TEST IN THE LEFT SACROILIAC JOINT CONSISTENT WITH LEFT SACROILIAC JOINT DYSFUNCTION, PARESTHESIA AND DYSESTHESIA IN THE RIGHT KNEE AND ANTERIOR LEG TO THE LEVEL OF MID SHAFT OF THE TIBIA. THE ABOVE FINDINGS ARE CONSISTENT WITH A DISABILITY RATING OF 10% UNDER V.A. CODE 5295.

DIAGNOSES (3), (4), AND (5) ARE CONSIDERED CATEGORY II CONDITIONS CONTRIBUTING TO DIAGNOSIS NUMBER (1).

THERE IS NO DOCUMENTED RESIDUAL IMPAIRMENT IN THE RIGHT LEG RELATED TO THE CHRONIC PARESTHESIAS IN THE RIGHT KNEE AND LEG THAT LIMITS THE MEMBER'S PERFORMANCE OF DUTIES. THEREFORE, THIS IS CONSIDERED A CATEGORY III CONDITION.

ALTHOUGH THE HEALTH RECORD ENTRIES PRESENTED SHOW MULTIPLE ENTRIES FOR PAIN IN THE LEFT ANKLE, THERE IS NO CONSISTENT DIAGNOSIS GIVEN, THERE IS NO LIMITATION OF MOTION, LIGAMENOUS INSTABILITY, OR X-RAY FINDINGS. ALSO, THERE IS NO MEDICAL BOARD ADDENDUM FOR THIS CONDITION AND NO MENTION OF THIS IN THE MEDICAL BOARD ADDENDUM SUBMITTED. THEREFORE, THIS CONDITION CANNOT BE ADDED OR RATED.

THE DISABILITY IS NOT CONSIDERED COMBAT RELATED.

  
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CAPT , USN, PRESIDING OFFICER

12-22-00  
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DATE

  
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COL , USMC, MEMBER

28 Dec '03  
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DATE

  
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CAPT , MC, USN, MEMBER

22 Dec '00  
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DATE